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BEFORE THE FEDERAL ELECTION COMMISSION

2004 NOV - 3 A 10: 59

In the matter of:

Michigan Democratic State Central Committee
and Alan Helmkamp, Treasurer
Committee ID: C00031054

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SENSITIVE

COMPLAINT

NOW COMES the Michigan Republican State Committee by its Executive Director, Greg McNeilly, hereinafter referred to as the "MRSC" of 2121 East Grand River, Lansing, MI 48912 to file this Complaint pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4 against the Michigan Democratic State Central Committee, Alan Helmkamp, Treasurer, hereinafter referred to as "MDSCC" of 606 Townsend, Lansing, Michigan 48933.

The MRSC does hereby state the following facts:

1. The MDSCC is responsible for the day-to-day operation of the Democratic Party for the State of Michigan and is a State committee pursuant to 11 C.F.R. § 100.14(a). Advisory Opinion 2003-11.

2. Congressman John Dingell is the Democratic candidate for the 15th Congressional District in the State of Michigan.

3. Kathy Angerer is the Democratic candidate for the 55th District in the House of Representatives for the State of Michigan.

4. Attached is a public communication (the "Public Communication") which bears a picture of Congressman John Dingell and which contains the following message/quote from Congressman John Dingell:

"Kathy Angerer has a plan for affordable health care and prescription drugs. She knows that we need to stand by our seniors and veterans.

- Congressman John Dingell"

5. The Public Communication was paid for by the MDSCC.

6. The Public Communication was publicly distributed or disseminated 120 days or fewer before the November 2, 2004 general election in the 15th Congressional District; Congressman John Dingell is the Democratic candidate for the 15th Congressional District in the State of Michigan.

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7. Upon information and belief, the Public Communication was not financed with funds subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971, as amended (the "Act").

8. The Public Communication bears the following public notice:

"Paid for by
Michigan Democratic State Central Committee
606 Townsend
Lansing, Michigan 48933

Not authorized by any candidate committee."

DISCUSSION OF THE LAW

The Public Communication Constitutes "Federal Election Activity"

On November 6, 2002, the Bipartisan Campaign Reform Act of 2002 (Pub. L. 107-155 (Mar. 27, 2002)) ("BCRA") took effect. As amended by BCRA, the Act regulates, among other things, the financing of "Federal election activity" by State party committees. Specifically, 2 U.S.C. § 441i(b)(1) provides that, with the exception of certain situations described in 2 U.S.C. § 441i(b)(2), "an amount that is expended or disbursed for Federal election activity by a State . . . committee of a political party . . . shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act." 2 U.S.C. § 431(20)(A) defines "Federal election activity" ("FEA") to include "a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate)." 2 U.S.C. § 431(20)(A)(iii), see also 11 C.F.R. § 100.24(b)(3). The term "public communication" means a "communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising." 2 U.S.C. § 431(22).

Based on the foregoing definitions, the Public Communication constitutes FEA since:

1. The Public Communication is a mass mailing or some other form of general public political advertising.
2. The Public Communication refers to Congressman John Dingell, the Democratic Candidate for the 15th Congressional District in the State of Michigan.

3. The Public Communication promotes or supports Congressman John Dingell, regardless of whether the Public Communication expressly advocates a vote for or against a candidate.

Consequently, the Public Communication must be financed by the MDSCC from funds subject to the limitations, prohibitions, and reporting requirements of the Act. 2 U.S.C. § 441i(b)(1).

The Public Communication Constitutes a "Coordinated Communication"

Viewed differently, but arriving at the same result, the Public Communication represents a coordinated contribution between the MDSCC and Congressman John Dingell. The Act defines as an in-kind contribution an expenditure made by any person "in cooperation, consultation, or concert with, or at the request or suggestion of" a candidate, his or her authorized committee or their agents. 2 U.S.C. § 441a(a)(7)(B)(i). The Federal Election Commission's coordinated communication regulation sets forth a three-prong test to determine whether an expenditure for a communication becomes an in-kind contribution as a result of coordination between a person making an expenditure and a candidate. A payment for a communication that satisfies all three prongs will constitute an in-kind contribution. Specifically, the three-part coordination test is as follows:

1. The communication is paid for by someone other than a candidate, the candidate's authorized committee, a political party committee, or agent of the foregoing;
2. The communication meets one of the "content standards" regarding the subject matter of the communication; and
3. The communication meets one of the "conduct standards" regarding the interactions between the person paying for the communication and the candidate, authorized committee, or political party committee, or agents of the foregoing. 11 C.F.R. 109.21(a).

The first part of the above-referenced coordination test is met since the MDSCC financed the Public Communication.

The "content standard" is also met since the Public Communication is a public communication that:

1. Refers to a political party or a clearly identified candidate;
2. Is publicly distributed or disseminated 120 days or fewer before an election; and
3. Is directed to voters in the jurisdiction of the clearly identified candidate or to voters in a jurisdiction where one or more

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candidates of the political party appear on the ballot. 11 C.F.R. 109.21(c).

Finally, the "conduct standard" test is met since Congressman John Dingell appears and offers a quote/message in the Public Communication. See Advisory Opinion 2004-1.

Accordingly, the Public Communication also represents an in-kind contribution from the MDSCC to Congressman John Dingell which must be financed from funds subject to the limitations, prohibitions, and reporting requirements of the Act.

The Public Communication Violates the Public Notice Provisions of the Act

Since the Public Communication is subject to the Act, the Public Communication must contain a printed box that is set apart from the contents in the communication. The disclaimer printed in this box must be of sufficient type size to be "clearly readable" by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 11 C.F.R. § 110.11(c)(2). Also, since the Public Communication was either authorized by Congressman John Dingell or is a coordinated party communication, the Public Communication violates 11 C.F.R. § 110.11 since it fails to indicate that it is authorized by Congressman John Dingell.

Upon Information and Belief, the MDSCC Has Violated the Reporting Requirements of the Act

11 C.F.R. § 300.36(b)(2) requires the MDSCC to disclose all receipts and disbursements for so-called "FEA" such as the Public Communication. 11 C.F.R. Part 104 requires the MDSCC to report all coordinated party expenditures or communications with respect to the Public Communication. Upon information and belief, the MDSCC has violated these requirements.

Accordingly, the MDSCC has violated the Act in at least the following respects:

1. The MDSCC financed the Public Communication with funds that were not subject to the limitations and prohibitions of the Act, in violation of 2 U.S.C. §§ 441a, 441b, 441c, 441e, 441f and 441i(b)(1).
2. The MDSCC has failed to place the proper disclaimer or notice on the Public Communication, in violation of 11 C.F.R. § 110.11.
3. Upon information and belief, the MDSCC has failed to properly report its disbursements for the Public Communication, in violation of 11 C.F.R. § 330.36 (b)(2) and/or 11 C.F.R. Part 104.

REQUEST FOR RELIEF

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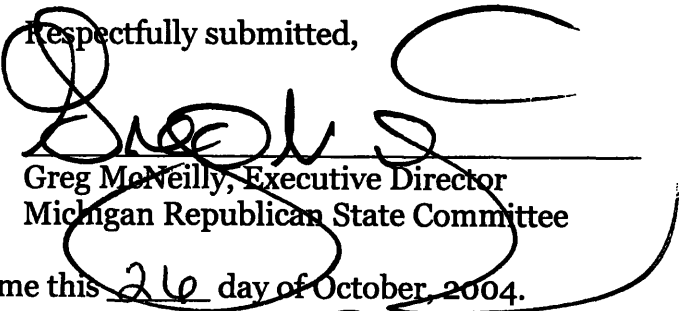
Based on the foregoing, the MRSC respectfully requests that the Federal Election Commission determine what expenditures were made by the MDSCC in connection with the Public Communication, determine which non-Federal account(s) financed the Public Communication, and assess all appropriate penalties for the MDSCC's illegal conduct.

Further, the MRSC respectfully requests that the Federal Election Commission institute any action necessary to enjoin any future illegal conduct of the MDSCC which is the subject of this Complaint.

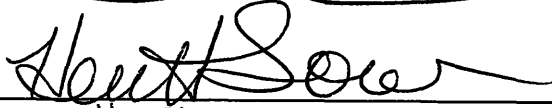
Further, the MRSC respectfully requests the Federal Election Commission to assess all appropriate penalties for said violation in accordance with 2 U.S.C. § 437g(a)(5)(A), or any other enforcement provisions of the Act.

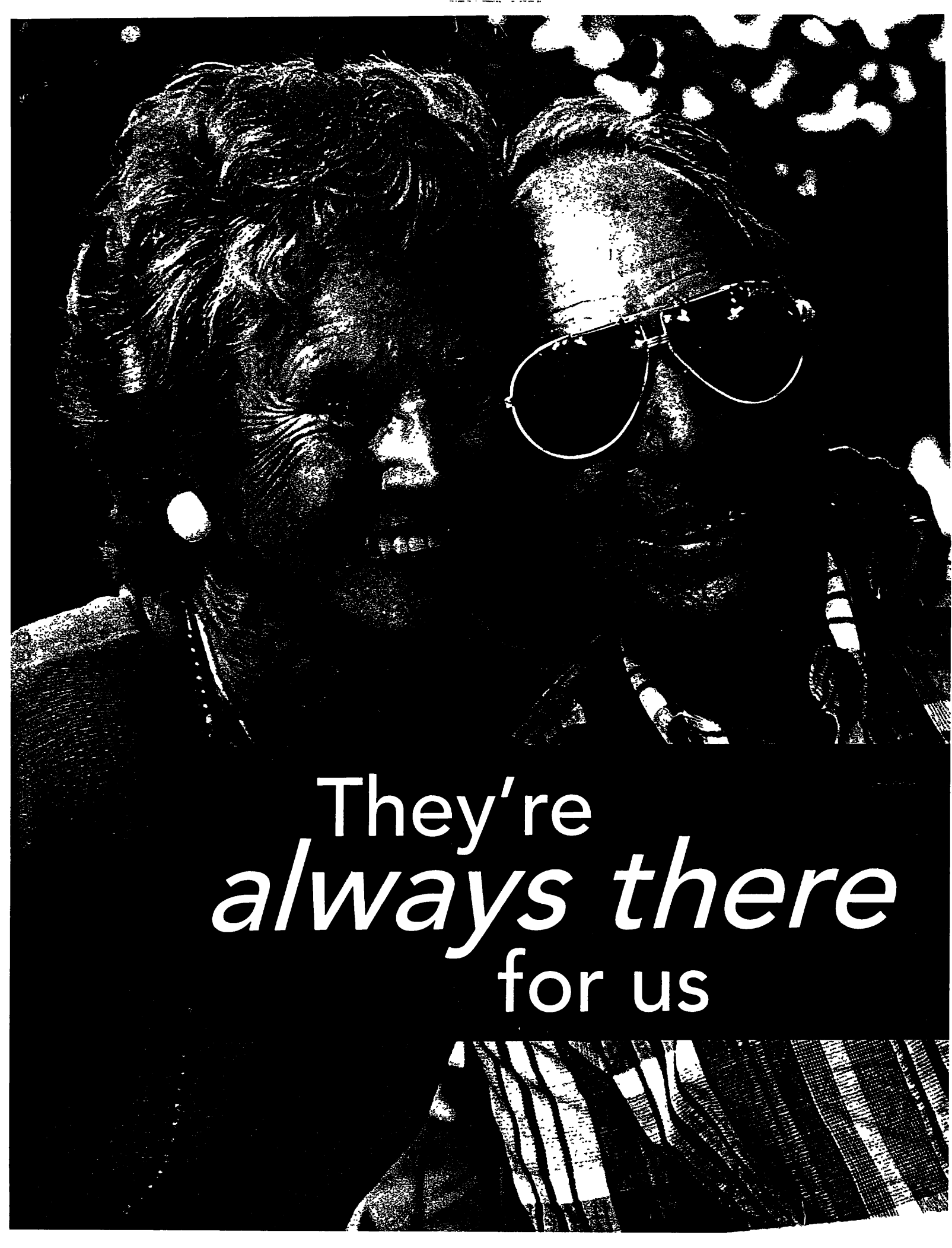
The above statements are true and accurate to the best of my knowledge, information and belief.

Respectfully submitted,


Greg McNeilly, Executive Director
Michigan Republican State Committee

Subscribed and sworn to before me this 26 day of October, 2004.


Henrietta Tow, Notary Public
Ingham County, Michigan
Acting in Ingham County
My commission expires: 10/05/06



They're
always there
for us

Paid for by
Michigan Democratic State Central Committee
606 Townsend
Lansing, MI 48933

NON-PROFIT
US POSTAGE
PAID
MICHIGAN
DEMOCRATIC PARTY

Not authorized by any candidate committee.



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~~OR CURRENT RESIDENT~~

~~RD~~

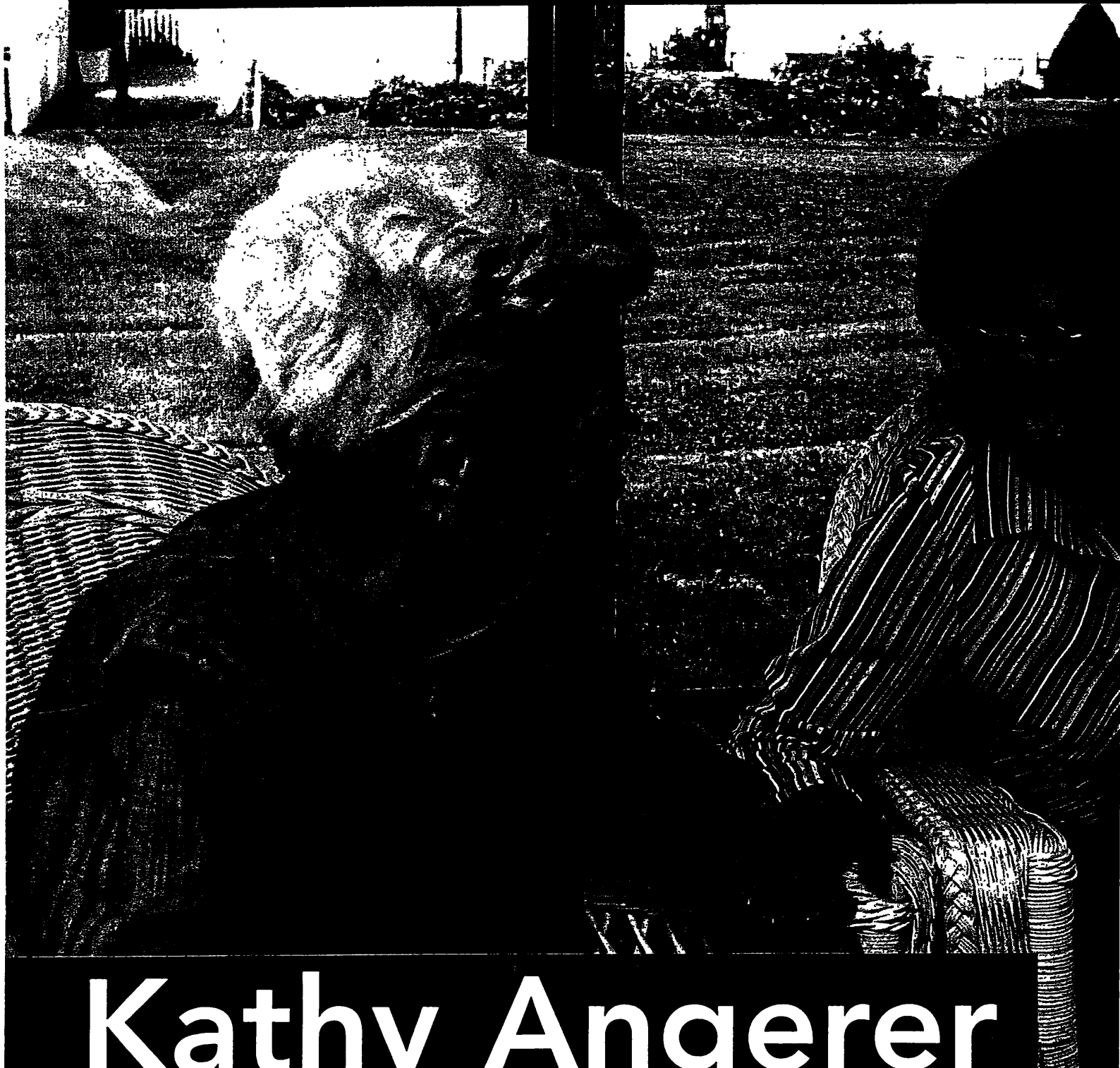


"Kathy Angerer has a plan for affordable health care and prescription drugs. She knows that we need to stand by our seniors and veterans."

-Congressman John Dingell



Kathy Angerer supports



Kathy Angerer

A Stronger Future for Michigan Families



ur seniors and veterans.

Kathy has a plan to bring down the high cost of drugs and health care.

The rising cost of health care and prescription drugs is hurting too many families. Kathy has a plan to improve access to better health care, and to lower prescription costs by allowing the state to negotiate lower prices with drug companies.

And, as the wife of a disabled Viet Nam veteran, *Kathy believes in standing up for those who have proudly served our country.*



Pro-Life



Pro-Second Amendment

For more information, please visit www.kathysplan.com.